

ORIGINAL

(33)
4-25-02
SC

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**BEVERLY BEAM,
Plaintiff**

V.

**SCOTT DOWNEY,
ROGER MORRISON,
DAVID GRAYBILL AND
MICHAEL SWEGER,**
Defendants

Defendants

THE JOURNAL OF CLIMATE

CIVIL ACTION NO.: 1:CV-01-0083

2

(Judge McClure) ✓

10

1

1

1

MARY E. D'ANDREA, CLERK
Per DB
DEPUTY CLERK

DEFENDANT ROGER MORRISON'S MOTION FOR ATTORNEYS' FEES AND ASSOCIATED EXPENSES

AND NOW, comes Defendant, Roger Morrison (hereinafter "Morrison"), by and through his attorneys, Mette, Evans & Woodside, and hereby moves this Court for an Order awarding attorneys' fees and associated expenses pursuant to 42 U.S.C. §1988 and/or the inherent power of the Court to award sanctions (See Chambers v. Nasco, Inc., 501 U.S. 32, 41-2 (1991)), for the successful defense of the present §1983 federal civil rights action with accompanying state law claims, and in support of which he avers as follows:

1. Plaintiff filed a Complaint on or about January 16, 2001, alleging both federal and state law claims.

2. On or about March 16, 2001, Defendant Morrison filed a Motion to Dismiss Pursuant to Federal Rule of Civil Procedure 12(b)(6).

3. By Order dated April 10, 2002, Morrison's Motion to Dismiss was granted pursuant to Fed. R. Civ. P. 12(b)(6) by the Honorable James F. McClure, Jr.

4. On or about April 16, 2002, Plaintiff filed a Notice of Appeal.

5. Defendant Morrison is entitled to an award of reasonable attorneys' fees and associated expenses pursuant to 42 U.S.C. §1988 and/or the inherent power of the Court to award sanctions for having successfully defended the meritless claims which Plaintiff brought and/or pursued against him in bad faith.

6. The approximate amount of the attorneys' fees and expenses incurred by Defendant Morrison to date, not including those fees that will be incurred by Morrison to defend the appeal filed by Plaintiff on or about April 16, 2002, is \$13,660.07, which is comprised of attorneys fees in the amount of \$11,516.00, and non taxable expenses in the amount of \$2,144.07.

7. The grounds for this Motion will be set forth with more particularity in the Memorandum of Law, and the affidavits and documentation, that will be filed in support of this Motion in accordance with this Court's schedule for filing same.

WHEREFORE, Defendant Roger Morrison respectfully moves this Court for an award of attorneys' fees and costs in the amount of \$13,660.07.

Respectfully submitted,

METTE, EVANS & WOODSIDE

By:


P. Daniel Altland, Esquire

Sup. Ct. I.D. #25438

Jennifer A. Yankanich, Esquire
Sup. Ct. I.D. #84201

3401 North Front Street
P.O. Box 5950
Harrisburg, PA 17110-0950
(717) 232-5000

Attorneys for Defendant, Roger Morrison

DATE: April 24, 2002

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**BEVERLY BEAM,
Plaintiff**

— 1 —

V.

CIVIL ACTION NO.: 1:CV-01-0083

(Judge McClure)

CERTIFICATE OF CONCURRENCE AND NONCONCURRENCE

I certify that Steven J. Schiffman, Esquire and Stephen S. Russell, Esquire concur in the
within Motion and that I sought the concurrence of Don Bailey, Esquire but, having left a
message and received no response, I must assume that it was not given.

METTE, EVANS & WOODSIDE

D-10

P. Daniel Altland, Esquire
Sup. Ct. I.D. #25438
Jennifer A. Yankanich, Esquire
Sup. Ct. I.D. #84201
3401 North Front Street
P.O. Box 5950
Harrisburg, PA 17110-0950
(717) 232-5000

Attnorneys for Defendant, Roger Morrison

DATE: April 24, 2002

CERTIFICATE OF SERVICE

I certify that I am this day serving a copy of the foregoing document upon the person(s) and in the manner indicated below, by depositing a copy of same in the United States Mail at Harrisburg, Pennsylvania, with first-class postage, prepaid, as follows:

Don Bailey, Esquire
4311 N. 6th Street
Harrisburg, PA 17110

Stephen S. Russell, Esquire
35 South Duke Street
P.O. Box 5167
York, PA 17405-5167

Steven J. Schiffman, Esquire
2080 Linglestown Road
Harrisburg, PA 17110

METTE, EVANS & WOODSIDE

By:


P. Daniel Altland, Esquire
Sup. Ct. I.D. #25438
Jennifer A. Yankanich, Esquire
Sup. Ct. I.D. #84201

3401 North Front Street
P.O. Box 5950
Harrisburg, PA 17110-0950
(717) 232-5000

Attorneys for Defendant, Roger Morrison

DATE: April 24, 2002